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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,222	11/20/2000	Joseph Kalinowski	5218-84	2994

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EXAMINER
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CHAWAN, VIJAY B

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/718,222

Applicant(s)

KALINOWSKI ET AL.

Examiner

Vijay B. Chawan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1,3,4, 7</u> . | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-17, 20-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirksey et al., (5,741,136).

As per claim 1, Kirksey et al., teach a method for enhancing the fluency of persons who stutter, comprising the steps of:

displaying visual speech gestures associated with the articulatory movements of a person's mouth on a display while a patient having a stuttering or speech impediment is speaking so that the patient is able to visually perceive the articulatory movements of the person's mouth provided on the display such that the patient is able to refer to the display at desired times to thereby enhance the fluency of the speech of the patient (Col.2, lines 12-24, Col.7, lines 42-45).

As per claim 2, Kirksey et al., teach a method according to claim 1, wherein said displaying step is carried out while the patient speaks at a substantially normal pace (Col.2, lines 12-24).

As per claim 3, Kirksey et al., teach a method according to claim 1, wherein said displaying step is carried out in advance of and temporally proximate to when the patient speaks (Col.2, lines 50-56).

As per claim 4, Kirksey et al., teach a method according to claim 1, wherein said displaying step is performed such that any attendant auditory sound associated with the visual speech gestures of said displaying step is inaudible to the patient (Col.5, lines 40-47).

As per claim 5, Kirksey et al., teach a method according to claim 1, wherein said displaying step is silent (Fig.7).

As per claim 6, Kirksey et al., teach a method according to claim 1, wherein the visual speech gestures of said displaying step are generated by a person silently mouthing word passages of text (Col.6, lines 29-49).

As per claim 7, Kirksey et al., teach a method according to claim 1, wherein the linguistic content of the visual speech gestures is incongruous with the content of the speech output by the patient (Col.13, lines 12-29).

As per claim 8, Kirksey et al., teach a method according to claim 1, wherein the visual speech gestures of said displaying step are performed at a substantially normal speech pace (Col.2, lines 12-24, Col.7, lines 42-45).

As per claim 9, Kirksey et al., teach the method of claim 1, wherein the visual speech gestures of said displaying step correspond to articulatory

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movements of a person generating coherent speech (Col.2, lines 12-24, Col.7, lines 42-45).

As per claim 10, Kirksey et al., teach the method of claim 1, wherein the visual speech gestures of said displaying step correspond to articulatory movements of a person generating incoherent speech (Col.2, lines 12-24, Col.7, lines 42-45, Col.13, lines 13-29).

As per claim 11, Kirksey et al., teach the method of claim 1, wherein the said displaying step is directed directly into the retina of at least one eye of the patient (Col.5, lines 48-55).

As per claim 12, Kirksey et al., teach the method of claim 1, further comprising the steps of accepting user input to adjust the visual presentation of the displayed output of the visual speech gestures of said displaying step, and adjusting the visual presentation responsive to the user input (Col.6, lines 29-44).

As per claim 13, Kirksey et al., teach the method of claim 12, wherein the step of adjusting comprises zooming to enlarge the mouth region of the person making the visual gestures (Col.8, lines 39-64).

As per claim 14, Kirksey et al., teach the method of claim 1, wherein said visual speech gestures of said displaying step are generated by at least one person (Col.2, lines 12-24, Col.7, lines 42-45).

As per claim 15, Kirksey et al., teach the method according to claim 1, wherein said visual speech gestures of said displaying step are simulated

representations of at least a person's mouth and lips generating articulatory movements (Col.8, lines 39-64, Col.7, lines 62-67).

As per claim 16, Kirksey et al., teach a method of claim 14, wherein the visual speech gestures are generated by a plurality of different persons (Col.8, lines 39-64, Col.7, lines 62-67).

As per claim 17, Kirksey et al., teach the method according to claim 1, wherein the display is carried on the frames of eyeglasses (Col.5, lines 49-55).

As per claim 20, Kirksey et al., teach the method according to claim 16, wherein the visual speech gestures of each of said plurality of persons are configured to be serially displayed (Col.8, lines 39-64, Col.7, lines 62-67).

As per claim 21, Kirksey et al., teach the method according to claim 20, wherein the visual speech gestures of the different persons of said displaying step are selectable by the patient (Col.10, lines 11-64).

As per claim 22, Kirksey et al., teach a method according to claim 21, wherein the visual speech gestures of the different persons correspond to the articulatory movements of those different persons speaking textual matter recognizable to the patient in the language of the patient, and wherein the recognizable textual matter is incongruous with the speech content of the patient (Col.8, lines 39-64, Col.7, lines 62-67).

As per claim 23, Kirksey et al., teach the method according to claim 22, wherein the visual speech gestures of the different persons comprise silent

articulatory movement associated with one or more of reciting nursery rhymes, poems, the lyrics of songs, speeches, national pledges, biblical passages, passages of books, and prayers (Col.8, lines 39-64).

As per claim 24, Kirksey et al., teach the method according to claim 1, wherein said displaying step is carried out such that the prominent image in the display is the person generating the visual speech gestures so that the articulatory movements are readily discernable by the patient (Col.8, lines 39-64).

As per claim 25, Kirksey et al., teach the method of claim 1, further comprising the step of generating an auditory stimulus which is audible to the patient, the auditory stimulus being unrelated to the visual speech gestures of said displaying step (Col.10, lines 11-64).

As per claim 26, Kirksey et al., teach the method according to claim 12, wherein said displaying step is carried out in response to the onset of a stuttering event (Col.6, lines 29-44).

As per claim 27, Kirksey et al., teach the method according to claim 25, wherein said generating step is separately selectable responsive to user input to initiate auditory output which is audible to the patient based on said generating step (Col.14, 6-49).

As per claim 28, Kirksey et al. teach the method according to claim 2, wherein said displaying step is carried out substantially continuously during the speech of the patient (Col.8, lines 39-64).

As per claim 29, Kirksey et al., teach the method according to claim 23, wherein said visual speech gestures are displayed such that any auditory sound associated therewith is suppressed, wherein the visual speech gestures are incongruous with the speech of the patient, and wherein the visual speech gestures are generated based on normal paces fluent speech (Col.8, lines 39-64).

As per claim 30, Kirksey et al., teach the method according to claim 1, wherein said displaying step is carried out by the display which is integrated into one of a portable hand-held device, a general purpose computer, a wireless communication device, a watch, a head-mounted display, and a telephone (Col.5, lines 49-55).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirksey et al., (5,938,447), in view of Ohnsorge (5,485,504).

Kirksey et al., while teaching a head mounted display in the form of special eyeglasses do not specifically teach a display operably associated with a telephone



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as per claim 18, or a wireless telephone as per claim 19. Ohnsorge, however in similar technology does teach a telephone as well as a wireless or a cellular telephone (Figs. 1-2, Col.1, line 49 – Col.2, line 36). Therefore, it would have been obvious to one with ordinary skill in the art at the time of invention to use the telephone and the wireless device as taught by Ohnsorge in the method of Kirksey et al., because, this would considerably improve the communication capabilities in a telephone or mobile environment.

Claims 31-48 are apparatus claims similar in scope and content of method claims 1-30, and are rejected under similar rationale.

Claims 49-61 are directed toward a computer program product to execute the method of claims 1-30, and are similar in scope and content, and are rejected under similar rationale.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kalinowski et al., (6,754,632) teach methods and devices for delivering exogenously generated speech signals to enhance fluency in persons who stutter.

Kehoe (6,231,500) teaches electronic anti-stuttering device providing auditory feedback and disfluency detecting biofeedback.

Houde (5,940,798) teaches feedback modification for reducing stuttering.

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Friedman et al., (5,765,135) teach a speech therapy system

Kehoe (5,794,203) teaches a biofeedback system for speech disorders.

Kanevsky et al., (6,505,208) teach educational monitoring method and system for improving interactive skills based on participants on the network.

Webster (4,020,567) teaches method and stuttering therapy apparatus.

Liebermann (5,982,853) teach a telephone for the deaf and method using the same.

Kirksey et al., (5,741,136) teach audio-visual work with a series of visual word symbols coordinated with oral word utterances.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vijay B. Chawan whose telephone number is (703) 305-3836. The examiner can normally be reached on Monday Through Thursday 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (703) 305-9645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vijay B. Chawan  
Primary Examiner  
Art Unit 2654

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3/2/05

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PRIMARY EXAMINER**